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March 19, 2021

By ECF

The Hon. Katherine Polk Failla
United States District Court
Southern District of New York
500 Pearl Street
New York, NY 10007-1312

MEMO ENDORSED

***Re: Shakeem Martin v. United States,
13 Cr. 879 (KFP)***

Dear Judge Failla:

I write to respectfully request permission to withdraw as counsel for Defendant Shakeem Martin and for new counsel to be appointed to him under the Criminal Justice Act, 18 U.S.C. § 3006A, in the above-referenced matter.

By way of background, I was originally appointed to represent Mr. Martin on or about March 10, 2014, in a case that was then filed under seal due to Mr. Martin's juvenile status. My appointment was continued when the case was unsealed on May 8, 2014, when Mr. Martin pled guilty to a Superseding Information to one count of discharge of a firearm in support of a crime of violence in violation of 18 U.S.C. § 924(c). I represented Mr. Martin at the time until his sentencing. I was thereafter reappointed to represent Mr. Martin in relation to a petition to vacate his conviction and sentence under 28 U.S.C. § 2255, which was then advanced in light of Johnson v. United States, 1135 S.Ct. 2551 (2015). On September 18, 2019, Mr. Martin's initial conviction was vacated by this Court under Johnson after which Mr. Martin immediately entered a plea to a Second Superseding Information charging him with one count of Conspiracy to Commit Hobbs Act Robbery in violation of 18 U.S.C. § 1951. My representation of Mr. Martin continued under the Criminal Justice Act until on or about his re-sentencing on December 4, 2019. Mr. Martin's re-sentencing included a term of three years of supervised released.

On or about February 5, 2021, a violation report and summons was issued for Mr. Martin. Thereafter, upon my request, this Court issued an Order continuing my prior appointment. Mr. Martin is presently detained on home incarceration pending a hearing on his alleged violations. I write now to request that new counsel be appointed due to scheduling conflicts and other matters that will impede my availability to represent Mr. Martin in a manner that would enable Mr. Martin to receive a prompt hearing on his alleged violations.

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At the outset I note that I am scheduled to begin a three-week trial before Judge Crotty on April 5, 2021: United States v. Tagliaferro, 19 Cr. 472 (PAC) (SDNY), rendering me unavailable to tend to Mr. Martin's case until at least May. I am a solo practitioner, however, and as is often the case when a solo practitioner is on trial, other deadlines will build up while I am on trial which I will need to tend to immediately after the trial is complete. Most notably, in May I am expected to be submitting a de-authorization submission to the Department of Justice in an *authorized* death penalty case proceeding in the Eastern District of Virginia, United States v. Elmer Zelaya Martinez, 18 Cr. 123 (RDA) (EDVA), and I am also expected to be submitting a mitigation submission likewise to the Department of Justice in a death-eligible death penalty case proceeding in the Eastern District of New York, United States v. Herman Blanco, 18 Cr. 609 (RJD) (EDNY).

Additionally, on or about May 15, 2021, I will be traveling to Illinois with my wife and daughter to visit family for the summer and, unless necessary, do not anticipate returning to New York City until my daughter begins kindergarten at the end of August. Given that neither I, my wife, nor my daughter, have been vaccinated yet for COVID-19, and I only became eligible this week (they still are not), my wife and I have been working remotely for the past year and have planned to spend the summer with family so that my daughter can have quality time with her grandmother and make the most of this difficult period. We did the same this past summer for the same reasons as well, and it was tremendously beneficial to us all. The timing of this trip is also necessitated by construction being done on our home in New York, which will make residing in our apartment unlivable for approximately 8 weeks, beginning on or about May 15, 2021.

I have spoken to Mr. Martin and he has made it clear that he wishes to promptly resolve his VOSR proceedings, which in this case may only be accomplished with a hearing since an admission to any specification would open Mr. Martin up to prosecution and significant punishment under Connecticut law.

I have discussed my scheduling conflicts with Mr. Martin, and he has informed me that he has no objection to the appointment of new counsel. I have also emailed with Assistant United States Attorney Christopher DeMase who has informed me that the Government likewise has no objection.

Accordingly, the undersigned respectfully requests permission to withdraw as counsel for Mr. Martin and for new counsel to be appointed pursuant to the Criminal Justice Act, 18 U.S.C. § 3006A. As always, I thank Your Honor for her time and consideration.

Respectfully submitted,

/S/

Michael K. Bachrach
Attorney for Defendant Shakeem Martin

cc: All parties of record (by ECF)

The Court is in receipt of Mr. Bachrach's above request to withdraw as counsel for Defendant, and hereby GRANTS Mr. Bachrach's request. The Court directs the CJA Clerk to identify a member of the CJA panel with an upcoming duty day who does not have any conflict in representing Defendant. That attorney will be appointed to represent Defendant in this matter at the upcoming conference scheduled for March 29, 2021. Moreover, due to the parties' scheduling conflicts, the March 29, 2021 conference will now begin at 12:00 p.m. The conference will proceed on a remote basis, and instructions for accessing the conference will be provided separately.

Dated: March 19, 2021
New York, New York

SO ORDERED.



HON. KATHERINE POLK FAILLA
UNITED STATES DISTRICT JUDGE